

1 Honorable Marsha Pechman
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 YOLANY PADILLA, *et al.*,

11 Plaintiffs-Petitioners,

v.

12 U.S. IMMIGRATION AND CUSTOMS
13 ENFORCEMENT, *et al.*,

14 Defendants-Respondents.

15 Case No. 2:18-cv-00928-MJP

16 **[PROPOSED] ORDER GRANTING
17 JOINT MOTION FOR
18 PRELIMINARY APPROVAL OF
19 SETTLEMENT AND REQUEST
20 FOR FAIRNESS HEARING**

21 The Parties have filed a Joint Motion for Preliminary Approval of the class action
22 settlement. The Court has carefully considered the Credible Fear Class Settlement Agreement
23 (the “Agreement”) together with all exhibits thereto, all the filings related to the settlement, the
24 arguments of counsel, and the record in this case. The Court hereby gives its preliminary
approval of the settlement; finds that the Agreement is sufficiently fair, reasonable, and adequate
to allow dissemination of notice of the Agreement (“Class Notice”) to the Credible Fear Class
and to hold a Fairness Hearing; orders the Class Notice to be sent to the Credible Fear Class in
accordance with the Agreement and this Order; and schedules a Fairness Hearing to determine
whether the proposed settlement is fair, adequate, and reasonable.

1 **IT IS HEREBY ORDERED THAT:**

- 2 1. The Agreement is hereby incorporated by reference in this Order, and all terms or
3 phrases used in this Order shall have the same meaning as in the Agreement.
- 4 2. The Court preliminarily approves the Agreement, provisionally finding that the terms
5 of the Agreement are fair, reasonable, and adequate as required by Fed. R. Civ. P.
6 23(e)(2), and within the range of possible approval and sufficient to warrant providing
7 notice to the Credible Fear Class.
- 8 3. The Court previously certified the Credible Fear Class as “All detained asylum seekers
9 in the United States subject to expedited removal proceedings under 8 U.S.C. § 1225(b)
10 who are not provided a credible fear determination within ten days of the later of (1)
11 requesting asylum or expressing a fear of persecution to a DHS official or (2) the
12 conclusion of any criminal proceeding related to the circumstances of their entry, absent a
13 request by the asylum seeker for a delayed credible fear interview.” This is also the class
14 for settlement purposes.
- 15 4. The Court finds that the proposed Credible Fear Class Notice and the proposed plan of
16 distribution of the Class Notice meet the requirements of Federal Rule of Civil Procedure
17 23(e)(1) and hereby directs Class Counsel to proceed with the notice distribution in
18 accordance with the terms of the Agreement. In so doing, the Court approves the
19 procedures set forth in Section XI.B of the Agreement and the Notice of Settlement of
20 Class Action for objections to the settlement.
- 21 5. Any Class Member who wishes to object to the Agreement must do so within 67 days
22 of this Order. Notice must be effectuated within seven days of this order.
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1 6. The Court directs that a hearing be scheduled on January 5, 2024 at 10:00 a.m. (the
2 “Fairness Hearing”) to assist the Court in finally determining whether the settlement is
3 fair, reasonable and adequate; and whether Final Judgment should be entered dismissing
4 with prejudice the Credible Fear Class claims in the above-captioned action but retaining
5 jurisdiction in this Court to interpret and enforce the Agreement for its duration. Plaintiffs
6 shall file a motion for final approval of the settlement no later than 14 days before the
7 Fairness Hearing.

8 7. The Agreement provides that Defendants shall pay Plaintiffs the amount of **\$100,000**
9 in attorneys’ fees and costs. The Court preliminarily finds that the provisions for payment
10 of attorneys’ fees and costs are reasonable.

11 8. Neither the settlement, nor any exhibit, document, or instrument delivered thereunder
12 shall be construed as or deemed to be evidence of an admission or concession by
13 Defendants or an interpretation of any liability or wrongdoing by Defendants, or of the
14 truth of any allegations asserted by Plaintiffs, Class Members, or any other person.

15 9. If the Agreement is not finally approved, or the Effective Date does not occur, or the
16 settlement is terminated under its terms, then (a) all parties will proceed as if the
17 Agreement (except those provisions that, by their terms, expressly survive disapproval or
18 termination of the settlement) had not been executed and the related orders and judgment
19 had not been entered, preserving in that event all of their respective claims and defenses
20 in the action; and (b) all releases given will be null and void. In such an event, this
21 Court’s orders regarding the Agreement, including this Preliminary Approval Order, shall
22 not be used or referred to in litigation for any purpose. Nothing in the foregoing
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1 paragraph is intended to alter the terms of the Agreement with respect to the effect of the
2 Agreement if it is not approved.

3 10. The Parties' Joint Motion for Preliminary Approval of Proposed Class Settlement
4 ("Motion") is hereby GRANTED. The Court hereby preliminarily approves the proposed
5 class-wide relief set forth in the Agreement (attached to the Joint Motion), hereby
6 approves the proposed form and plan of notice (addressed in the Agreement), and hereby
7 schedules the Fairness Hearing.

8 **IT IS SO ORDERED.**

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10 Dated this 30th day of October, 2023.

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13 Honorable Marsha Pechman
14 United States Senior District Judge

15 RESPECTFULLY SUBMITTED this 18th day of October, 2023.

16 s/ Matt Adams

17 Matt Adams, WSBA No. 28287

18 s/ Trina Realmuto

Trina Realmuto*

19 s/ Aaron Korthuis

Aaron Korthuis, WSBA No. 53974

20 s/ Kristin Macleod-Ball

Kristin Macleod-Ball*

21 s/ Glenda M. Aldana Madrid

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[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT - 5
Case No. 2:18-cv-700928-MJP

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